

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
CENTRAL DIVISION

UNITED STATES OF AMERICA, Plaintiff, vs. ANTONIO MARSHALL, Defendant.	3:23-CR-30124-RAL OPINION AND ORDER DENYING DEFENDANT’S MOTION TO DISMISS
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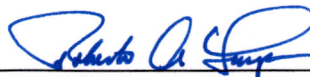
Defendant Antonio Marshall was indicted for violating 18 U.S.C. § 922(g)(1), namely being a felon in possession of a firearm. Marshall moved to dismiss the Indictment, Doc. 20, arguing that § 922(g)(1) is unconstitutional based on the Second Amendment and the United States Supreme Court’s decision in New York State Rifle & Pistol Ass’n v. Bruen, 142 S. Ct. 2111 (2022). Doc. 20. However, as Marshall concedes in the first paragraph of his Memorandum in Support of Defendant’s Motion to Dismiss, Doc. 21, the United States Court of Appeals for the Eighth Circuit has rejected this argument in two recent cases: United States v. Cunningham, 70 F.4th 502, 506 (8th Cir. 2023) (holding that 18 U.S.C. § 922(g)(1) is facially constitutional) and United States v. Jackson, 69 F.4th 495 (8th Cir. 2023), reh’g en banc denied, 2023 WL 5605618 (8th Cir. 2023). “Together, [these cases] spell the end for [Marshall’s] constitutional challenge.” United States v. Doss, No. 22-3362, 2023 WL 8299064, at *1 (8th Cir. Dec. 1, 2023) (per curiam) (unpublished) (rejecting yet another challenge to the constitutionality of 18 U.S.C. § 922(g)(1)).

In light of adverse Eighth Circuit precedent, Marshall also acknowledges that this Court is powerless to grant the relief he requests. Doc. 21 at 1 (stating “Marshall acknowledges that this court is unable to provide the relief sought by his motion). Indeed, district courts within the Eighth Circuit are bound to follow precedential decisions of the United States Court of Appeals for the Eighth Circuit. Hood v. United States, 342 F.3d 861, 864 (8th Cir. 2003); see also United States v. Faust, No. 23-CR-2005-LTS-MAR, 2023 WL 4669028, at *5 (N.D. Iowa June 30, 2023). As this Court explained in more detail in United States v. Blue Bird, 22-CR-30112, 2024 WL 35247 (D.S.D. Jan. 3, 2024), absent the Eighth Circuit changing course and overruling its decisions in Cunningham, Jackson, and Doss, this Court must faithfully adhere to the dictates of those opinions. See United States v. Grubb, No. 23-CR-1041-CJW-MAR, 2023 WL 5352000, at *4 (N.D. Iowa Aug. 21, 2023). Therefore, it is

ORDERED that Defendant Antonio Marshall’s Motion to Dismiss, Doc. 20, be denied.

DATED this 13th day of February, 2024.

BY THE COURT:



ROBERTO A. LANGE
CHIEF JUDGE